

SLR:sldm 4/23/04 266079
PATENT

Attorney Reference Number 6235-59216
Application Number 09/857,719

Remarks

Claims 11, 12, 14, 16, 18, 33, and 36-41 were pending. By this proposed amendment, claims 12, 18, and 37-41 would be cancelled, and claims 11, 14, 16, 33, and 36 amended. Therefore, claims 11, 14, 16, 33, and 36 would be pending.

Support for the amendment can be found throughout the specification, for example claims 12 and 18. The amendments do not raise any new issues after final rejection because the amendments to independent claims 11, 14, 16, 33, and 34 merely incorporate a claim limitation that was already present in a dependent claim that depended from each of the amended independent claims.

Applicants thank the examiner for withdrawing the previous 35 U.S.C. § 112, first paragraph rejections; the previous 35 U.S.C. § 102(b),(e), and (f) rejections; the previous 35 U.S.C. § 102(a) rejection in view of WO 97/07824 in view of Hammer *et al.* (U.S. Patent No. 5,792,453); and the previous double patenting rejection.

Specification

The specification has been amended to include the phrase "We claim" on page 13, instead of page 11, as suggested by the examiner.

35 U.S.C. § 112, first paragraph

Claims 11, 12, 14, 16, 18, 33, and 36-41 are rejected under 35 U.S.C. § 112, first paragraph, on the ground that the specification teaches only the HGF-HVJ-liposome. Although Applicants respectfully disagree, in order to expedite prosecution, claim 16 was amended to include the term "HGF" (and claim 18 cancelled); and the phrase "Sendai virus (HVJ)-liposome" is now included in claims 11, 14, 16, 33, and 36 (and claim 12 cancelled). Claims 37-41 have been cancelled without prejudice to prosecution in a future application.

In view of the claim amendments and cancellations, Applicants' request that the 35 U.S.C. § 112, first paragraph rejection be withdrawn.

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35 U.S.C. § 112, second paragraph

Claim 37 is rejected under 35 U.S.C. § 112, first paragraph, on the ground that the term "incision" is unclear. In view of the cancellation of claim 37, this rejection is now moot and Applicants' request that the 35 U.S.C. § 112, second paragraph rejection be withdrawn.

35 U.S.C. § 103(a)

Claims 11, 12, 14, 16, 18, 33, and 36-41 are rejected under 35 U.S.C. §103(a) as unpatentable over WO 97/07824, Esakof *et al.* (*Hum. Gene Ther.* 10:2307-14, 1999), and Maurice *et al.* (*J. Clin. Invest.* 104:21-9, 1999), further in view of Stevens *et al.* (U.S. Patent No. 5,916,193). Although the Applicants respectfully disagree, in order to expedite prosecution, the claims are amended to recite the use of an HGF-Sendai virus (HVJ)-liposome. Because none of the cited prior art discloses or suggests the use of a Sendai virus (HVJ)-liposome, the claims are not obvious in view of the cited references.

In addition, all of the pending claims (except claim 36) are directed to the use of an HGF-Sendai virus (HVJ)-liposome to treat myocardiopathy or a cardiac muscle disorder. However, none, of the prior art cited against the present application discloses or suggests myocardiopathy or a cardiac muscle disorder as a target disease, and therefore do not make the pending claims obvious.

Claim 36 is directed to treating a disorder that would benefit from increased angiogenesis and/or decreased fibrosis. The Applicants have shown the effectiveness of an HGF-Sendai virus (HVJ)-liposome in promoting angiogenesis and reducing fibrosis. Because the prior art cited does not disclose or suggest that an HGF-Sendai virus (HVJ)-liposome would have an anti-fibrosis or angiogenesis effect, the claim 36 is not obvious in view of the prior art.

In view of the amendments, Applicants' request that the 35 U.S.C. §103(a) rejection be withdrawn.

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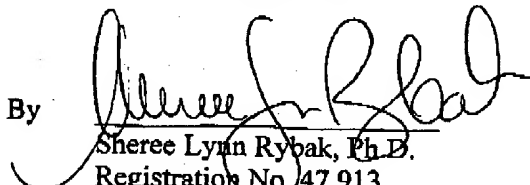
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This amendment places the application in condition for immediate allowance, and Applicants therefore respectfully requests that it be entered. If the Examiner believes any minor matters remain to be resolved, she is encouraged to contact the undersigned.

Respectfully submitted,

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